

FILED

NOT FOR PUBLICATION

DEC 29 2009

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

CYRIL KOLOCOTRONIS,

Plaintiff - Appellant,

v.

BENEFIS HEALTHCARE; et al.,

Defendants - Appellees.

No. 07-35825

D.C. No. CV-07-00074-  
DWM/JCL

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Donald W. Molloy, District Judge, Presiding

Submitted December 15, 2009\*\*

Before: GOODWIN, WALLACE, and CLIFTON, Circuit Judges.

Cyril Kolocotronis appeals pro se from the district court's judgment  
dismissing his action pursuant to 28 U.S.C. § 1915(e) as barred by the doctrine of

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision  
without oral argument. *See* Fed. R. App. P. 34(a)(2).

res judicata.<sup>1</sup> We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005), and we affirm.

The district court properly dismissed the action because Kolocotronis raised the same claims against defendants and their privies in a prior federal action that was dismissed as frivolous under section 1915. *See Denton v. Hernandez*, 504 U.S. 25, 34 (1992) (explaining that the dismissal of an in forma pauperis complaint as frivolous under section 1915 may have a res judicata effect on frivolousness determinations for future in forma pauperis proceedings); *see also Mpoyo*, 430 F.3d at 987 (listing elements of res judicata).

**AFFIRMED.**

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<sup>1</sup> The district court certified that Kolocotronis's appeal was not taken in good faith, thus revoking Kolocotronis's in forma pauperis status. *See* 28 U.S.C. § 1915(a). We grant in forma pauperis status.